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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,121	01/31/2002	Robert P. Benjey	01-ASD-224 (GT)	5887

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EXAMINER

RIVELL, JOHN A

ART UNIT	PAPER NUMBER
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3753

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DATE MAILED: 05/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/060,121

Applicant(s)

BENJEY, ROBERT P. 

Examiner

John Rivell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/31/02 (appl) & 3/12/02 (draws).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 11 is/are rejected.
- 7) ☒ Claim(s) 6, 10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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Claims 1-12 are pending.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 7 and 9 are rejected under 35 U.S.C. §102 (b) as being anticipated by Hashimoto et al. In Hashimoto et al. there is disclosed a "system for controlling flow of liquid fuel and vapor during refueling of a motor vehicle fuel tank (2) with a filler tube (3) for receiving a fuel dispensing nozzle (N) comprising: (a) a vent valve (5 or 6) disposed in the tank (2) and having an inlet (at 5, 6a) communicating with the vapor dome in the tank (2) and an outlet (7 or 8) communicating with a remote vapor storage device (9); (b) a seal (shown in figures 3 and 4 extending radially inwardly from the periphery of the inner diameter of the cylindrical body 19 forming an eccentric port for reception of the fuel dispensing nozzle "N" and sealing there around) disposed in the filler tube (3) and operable for sealing about the nozzle (N) upon insertion therein (see fig. 4); (c) a recirculation conduit (18) connected to admit fuel vapor to the filler neck (3) at a location downstream of the seal: and, (d) a neck portion (the lower left side of tube 3 as shown in fig. 4) in the filler tube (3) downstream of the location of said recirculation conduit (18) connection location, wherein said neck has an inner periphery thereof sized to receive the nozzle (N) in closely fitting arrangement and to form an effective dynamic seal about the liquid discharging from the nozzle" (N) as claimed in claim 1. The

"dynamic seal" formed therein is considered to be "effective" in that a negative pressure condition is created within the chamber area 21 (column 7, lines 13-22).

Regarding claim 4, in Hashimoto et al., the "recirculation conduit (18) has one end connected through the wall of the tank (2) and an end opposite said one end connected to the filler tube (3) at said location" as claimed.

Regarding claim 5, in Hashimoto et al., both "said vent valve(s) (5 and 6 are) float operated" as claimed.

Regarding claims 7 and 9 the method steps recited therein are clearly those practiced when making and/or using the device of Hashimoto et al.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al. in view of Yamazaki et al. The patent to Hashimoto et al. discloses all the claimed features with the exception of having a check valve in the recirculation line and having the "end" opposite the filler tube end of the recirculation line connected to a line connecting the vent valve and the storage device. The patent to Yamazaki et al. discloses, in figure 9 for example, that it is known in the art to employ a vapor recirculation line 27₃ connected between a line 23a connecting the float vapor vent valve 25 to a vapor storage device "C" and the filler tube 22a', which recirculation line 27₃ includes a check valve 62 therein for the purpose of recirculating vapor conducted to the storage device from the vent valve back to the filler tube, and to control the direction of vapor flow within the recirculation tube. It would have been

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obvious at the time the invention was made to a person having ordinary skill in the art to employ in Hashimoto et al. a vapor recirculation line connected between line 7 or 8 connecting the float vapor vent valve 5 or 6 to vapor storage device 9 and the filler tube 3, which recirculation line includes a check valve therein for the purpose of recirculating vapor conducted to the storage device from the vent valve back to the filler tube, and to control the direction of vapor flow within the recirculation tube as recognized by Yamazaki et al.

Claims 6, 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (703) 308-2599. The examiner can normally be reached on Monday –Thursday between 6:30am and 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mikado Buiz can be reached on (703) 308-0871. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

j.r.
May 7, 2003


John Rivell
Primary Examiner
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